



W.P. No. 33864 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 33864 of 2015

and

M.P. No. 1 of 2015

Om Sri Vivekananda Educational Trust,
Rep. by its Authorised Signatory,
Attur Main Road, Ramalingapuram,
Salem - 636 106.

... Petitioner

-VS-

1. The Government of India,
Rep. by its Seceretary,
Department of Road Transport and Highways,
Minsitry of Shipping, Road Transport and Highways,
New Delhi.
2. National Highways Authority of India,
Rep. by its Chairman,
G-5 & 6, Sector - 10,
Dwaraka, New Delhi - 110 075.
3. The Project Director,
National Highways Authority of India,
Project Implementation Unit,
VSA Commercial Complex,
9-11, Omalur Main Road,
Salem - 636 004.
4. L&T Krishnagiri Thopur Toll Road Pvt Ltd.,
Toll Plaza, NH - 7,
Palayam Village,
Dharmapuri - 636 807.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Declaration, declaring that the benefit of Paragraph 7(b)(ii) of the Notification of the First Respondent in S.O.145(E), dated 14.01.2009 is available to all the "educational institution buses" more specifically mentioned in the Schedule hereunder as defined in Section 2(11) of the Motor Vehicles Act and not only for 'school buses'

The Schedule

TN-30/AZ-3777, TN-49/AB-3019, TN-67/K-4788
TN-34/D-0582, TN-51/T-9257, TN-33/K-3355
TN-27/X-9659, TN-29/AC-9799, TN-30/L-6799
TN-23/AD-1999, TN-69/T-9567, TN-33/AM-8049
TN-31/F-9898, TN-48/E-6166, etc.

For Petitioner : Mr. Kandhan Duraisami

For Respondents : Mr. D.Simon (for R1 and R2)

Mr. Su.Srinivasan (for R3)

Mr. Thiriyambak J.Kannan (for R4)

ORDER

Heard Mr. Kandhan Duraisami, Learned Counsel for the Petitioner and Mr. D.Simon, Learned Counsel for the First and Second Respondents, Mr. Su.Srinivasan, Learned Counsel for the Third Respondent and Mr. Thiriyambak J.Kannan, Learned Counsel for the Fourth Respondent and



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perused the materials placed on record, apart from the pleadings of the parties.

2. This Writ Petition had been filed for declaring that the benefit of S.O.145(E), dated 14.01.2009 is not only for 'school buses', but is available to all the 'educational institution buses' bearing Registration Nos. TN-30/AZ-3777, TN-49/AB-3019, TN-67/K-4788, TN-34/D-0582, TN-51/T-9257, TN-33/K-3355, TN-27/X-9659, TN-29/AC-9799, TN-30/L-6799, TN-23/AD-1999, TN-69/T-9567, TN-33/AM-8049, TN-31/F-9898, TN-48/E-6166, etc. belonging to the Petitioner in this case as defined under Section 2(11) of the Motor Vehicles Act, 1988.

3. Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition and he has made an endorsement to that effect in the court record.

4. It has been brought to notice that on account of the interim direction to the Third Respondent to collect Rs.1,000/- only per vehicle per month from the Petitioner, which are exclusively used for taking students for schools and colleges, at the time of admission on 27.10.2015, the Third Respondent has not been able to collect the differential amount due from the Petitioner till date. In



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such circumstances, it is made clear that following the dictum laid down by the

Hon'ble Supreme Court of India in *South Eastern Coalfields Ltd. -vs- State of Madhya Pradesh* reported in [(2003) 8 SCC 648], the Respondents are not precluded from working out their rights for recovering the differential amount due from the Petitioner in the manner recognized by law.

In fine, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Note: Issue order copy by 15.11.2022.

To

1. The Secretary to Government of India,
Department of Road Transport and Highways,
Minsitry of Shipping, Road Transport and Highways,
New Delhi.
2. The Chairman,
National Highways Authority of India,
G-5 & 6, Sector - 10,
Dwaraka, New Delhi - 110 075.
3. The Project Director,



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National Highways Authority of India,
Project Implementation Unit,
VSA Commercial Complex,
9-11, Omalur Main Road,
Salem - 636 004.

4. L&T Krishnagiri Thopur Toll Road Pvt Ltd.,
Toll Plaza, NH - 7,
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P.D. AUDIKESAVALU, J.

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